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No. 10-315

In the Supreme Court of the United States

SONIC AUTOMOTIVE, 2752 LAURENS RD., GREENVILLE, INC., D/B/A CENTURY BMW, PETITIONER

v.

CHRISTINE WATTS, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

SUPPLEMENTAL BRIEF FOR THE PETITIONER

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On April 27, 2011, this Court issued its decision in *AT&T Mobility LLC* v. *Concepcion*, No. 09-893, holding that the Federal Arbitration Act (FAA) preempts any state-law rule that "stand[s] as an obstacle to the accomplishment of the FAA's objectives." Slip op. 9. The state-law rule that the Court held to be preempted in *AT&T Mobility* is materially indistinguishable from the state-law rule at issue in this case. Like the rule in *AT&T Mobility*, the rule at issue here invalidates a prohibition on class arbitration contained in an arbitration agreement on the ground that it is "unconscionable or unenforceable as against public policy." *Id.* at 7. And like the rule in *AT&T Mobility*, the rule at issue here, although it "does not *require* classwide arbitration," *id.* at 12, contravenes the "overarching purpose" of the

FAA: *viz.*, "to ensure the enforcement of arbitration agreements according to their terms so as to facilitate streamlined proceedings." *Id.* at 9. In so doing, the rule "interferes with fundamental attributes of arbitration and thus creates a scheme inconsistent with the FAA." *Ibid.*

Because the lower court's rejection of petitioner's preemption argument cannot be reconciled with this Court's reasoning in *AT&T Mobility*, the Court should grant the petition for certiorari, vacate the judgment below, and remand the case for further consideration in light of *AT&T Mobility*.

Respectfully submitted.

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